IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Craig Ogg

Application No.: 10/679,861	Confirmation No.: 3194
Filed: October 6, 2003	Art Unit: 3628
For: SYSTEM AND METHOD FOR CONTROLLING POSTAGE USAGE INDEPENDENT OF METER BALANCE	Examiner: A. K. Robinson-Boyce

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

The Appellant hereby requests that a panel of Examiners formally review the legal and factual basis of the rejections of record prior to the filing of an Appeal Brief. This Request is filed with a Notice of Appeal.

REMARKS

I.   General

Claims 1-13 and 15-38 are pending in this application. Claims 23-28 stand withdrawn from prosecution.

II.   Rejection Under 35 U.S.C. § 103 with Liechti and Ryan.

Claims 1-5, 7-11, 13, and 29-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,715,164 to Liechti in view of Ryan.

A.   Independent Claim 1

Neither Liechti nor Ryan nor the combination of cited prior art discloses all of the limitations of claim 1. The Office Action admits that Liechti does not teach storing a plurality of entries as claimed and relies upon Ryan as disclosing this feature, in that it describes storing a plurality of customer account files in an account database in a mailpiece processing system, wherein each account file is associated with a different customer.

Applicant respectfully disagrees and notes that while Ryan teaches having a plurality of accounts, it does not teach having a meter comprising a plurality of entries as claimed. Instead, the account files of Ryan "correspond[] to the plurality of postage metering systems," wherein the "data center stores reset data in each of the plurality of account files representative of reset activity associated with the plurality of postage metering systems", See Ryan, [0013]. Further, the data center can "conduct[] a forensic accounting analysis of the empirical data and the reset data associated with a selected postage metering system." Id. Accordingly, a combination of Liechti and Ryan would result in a metering system having a database of empirical mailing activities of individual postage meter systems and is operable only to limit the usage of a particular meter. Thus, Ryan fails to disclose at least this claim's limitation. Consequently, the combination of Liechti and Ryan does not disclose all elements of the claimed invention.

Further, the Office Action relies on Liechti as disclosing the parameter limiting an ability of the associated user to evidence postage using the meter. Applicant respectfully disagrees and notes that Liechti does not disclose storing a parameter for individual users of a meter, but rather stores limits for each meter. See Liechti, Abstract, col. 5, lines 5-10. Accordingly, the system of Liechti is only capable of limiting the usage of each meter in that system, and not limiting an ability of the associated user to evidence postage using the meter, as recited by claim 1. Thus, Liechti fails to disclose at least this limitation. Accordingly, the combination of Liechti and Ryan does not disclose all elements of the claimed invention. Therefore, Applicant respectfully asserts that for the above reasons, claim 1 is patentable over the 35 U.S.C. § 103 rejection of record.

Applicant further notes that Ryan specifically teaches away from having a meter with a plurality of users. Ryan states that one skilled in the art would recognize that the account identifier and the meter serial number may be collapsed into one single identifier that serves to identify the customer, see paragraph [0028], lines 24-27. Thus, Ryan contemplates having only one user for a meter.

B.   Independent Claim 8

Neither Liechti nor Ryan nor the combination of cited prior art discloses all of the limitations of claim 8. The Office Action admits the Liechti does not teach storing a plurality of entries as claimed, and instead it relies upon Ryan as disclosing this feature. However, this reliance is misplaced as Ryan fails to make such disclosure, but rather Ryan discusses "account files [that] correspond[] to the plurality of postage metering systems," wherein the "data center

stores reset data in each of the plurality of account files representative of reset activity associated with the plurality of postage metering systems." See the similar discussion above with respect to claim 1.

Also, contrary to the Office Action's assertion, Liechti does not disclose storing a parameter for individual users of a postage meter, but rather the system of Liechti stores specific limits for each postage meter. See the similar discussion with respect to claim 1.

Applicant further notes that Ryan specifically teaches away from having a meter with a plurality of users, as discussed with respect to claim 1.

C.   Independent Claim 29

Neither Liechti nor Ryan nor the combination of cited prior art discloses all of the limitations of claim 29. The Office Action admits that Liechti does not teach storing a plurality of entries as claimed, and instead it relies upon Ryan as disclosing this feature. However, this reliance is misplaced as Ryan fails to make such disclosure, but rather Ryan discusses "account files [that] correspond[] to the plurality of postage metering systems," wherein the "data center stores reset data in each of the plurality of account files representative of reset activity associated with the plurality of postage metering systems." See Ryan, paragraph [0013]. Accordingly, a combination of Liechti and Ryan would result in a metering system having a database of empirical mailing activities of individual postage meter systems and is operable only to limit the usage of a particular meter. Thus, Ryan fails to disclose at least this claim's limitation. Consequently, the combination of Liechti and Ryan does not disclose all elements of the claimed invention.

Contrary to the Office Action's assertion, Liechti does not disclose storing at least one postage usage parameter for individual users of a postage meter, but rather the system of Liechti stores specific limits for each postage meter. See the similar discussion with respect to claim 1.

Moreover, Liechti does not disclose determining, based on the requesting user's postage usage parameter, if sufficient postage is available to fulfill the request for the requesting user, as recited by claim 29. The Office Action asserts that Liechti's termination of the meter's ability to evidence postage when the ascending register reaches the postage amount limit describes this limitation of claim 29. However, this reliance is misplaced as Liechti does not explicitly teach a determination step based on the postage limit of a user out of a plurality of users. Even if this determination is to be implied, then Liechti's determination would be based on the meter's

postage limits and not on the postage limits of a user among a plurality of users of a meter, as required by claim 29. Liechti plainly states that "the value of the ascending register may not exceed the postage amount limit . . ., and [t]he meter becomes inoperative as soon as the ascending register value is greater or equal to the postage limit. Only by connection of the meter to data center 15, may a new postage amount limit be established." See Liechti, col. 5, lines 22-28. Accordingly, in Liechti, when the meter's postage limit is reached, it is determined that the meter – not the requesting user – does not have sufficient postage available. Therefore, nothing in Liechti teaches performing a determination based on a parameter associated with a particular user out of a plurality of users of a meter. Ryan is not relied upon as disclosing this limitation of claim 29. Consequently, the combination of Liechti and Ryan does not disclose all elements of the claimed invention. Therefore, Applicant respectfully asserts that for the above reasons, claim 29 is patentable over the 35 U.S.C. § 103 rejection of record.

III.   Rejection Under 35 U.S.C. § 103 with Liechti, Ryan, and Manduley.

Claims 12, 15-22, and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Liechti in view of Ryan and further in view of Manduley.

A.   Independent Claim 15

The combination of Liechti, Ryan, and Manduley does not disclose all of the limitations of claim 15. The Office Action admits the Liechti does not teach storing a plurality of entries as claimed and does not rely upon Manduley as disclosing this feature. Instead, the Office Action relies upon Ryan as disclosing this feature. However, this reliance is misplaced as Ryan fails to make such disclosure, but rather Ryan discusses "account files [that] correspond[] to the plurality of postage metering systems," wherein the "data center stores reset data in each of the plurality of account files representative of reset activity associated with the plurality of postage metering systems." See Ryan, paragraph [0013]. Accordingly, the cited would result in a metering system having a database of empirical mailing activities of individual postage meter systems and is operable only to limit the usage of a particular meter. Thus, Ryan fails to disclose at least this claim's limitation. Consequently, the combination of Liechti, Ryan, and Manduley does not disclose all elements of the claimed invention.

Also, contrary to the Office Action's assertion, Liechti does not disclose storing a parameter for individual users of a postage meter, but rather the system of Liechti stores specific limits for each postage meter. See the similar discussion with respect to claim 1.

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and in Reply to Office Action of June 25, 2008

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Applicant further notes that Ryan specifically teaches away from having a meter with a plurality of users, as discussed with respect to claim 1.

IV. Rejection Under 35 U.S.C. § 103 with Liechti, Ryan, Meador and Others

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Liechti in view of Ryan and further in view of U.S. Publication No. 2004/0194154 to Meadors et al. ("Meadors").

In the interest of brevity, Applicant does not argue the dependent claims separately herein, but rather takes the position that the dependent claims are allowable at least because of their dependence from claims 1, 8, 15, and 29. Applicant reserves the right to argue the dependent claims separately in the future. Thus, Applicant believes that claims 2-7, 9-13, 16-22, and 30-38 are allowable over their respective rejections of record.

V. Conclusion

In view of the above, Applicant respectfully requests that the review panel reverse the outstanding rejections of record and pass this application it issue. The required fee for the Notice of Appeal filed with this request is being paid by credit card. However, if any additional fee is due, please charge any fees required or credit any overpayment to Deposit Account 06-2380 under Order No. 61135-P023US-10303235 during the pendency of this Application pursuant to 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.
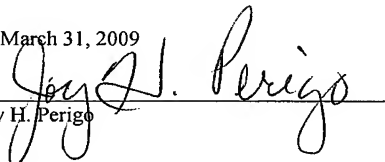
Dated: March 31, 2009

Respectfully submitted,

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I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the U. S. Patent and Trademark Office electronic filing system in accordance with § 1.6(a)(4).

Date: March 31, 2009

By:

Joy H. Perigo